

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-cv-22310-ALTMAN/Reid

NELSON FERNANDEZ,

Plaintiff,

v.

DAVE & BUSTERS, INC.,

Defendant.

ORDER

The Plaintiff has filed a Motion for Voluntary Dismissal Without Prejudice [ECF No. 34] under Federal Rule of Civil Procedure 41(a)(2) (because the Defendant had already filed an Answer and Affirmative Defenses [ECF No. 11]). The Plaintiff says that he has “in good faith conferred with counsel for Defendant regarding the relief requested herein, but [has] not been able to resolve the issues raised herein. Accordingly, the motion is being submitted as opposed.” Plaintiff’s Motion for Voluntary Dismissal Without Prejudice [ECF No. 34] at 5. Having carefully considered the matter, we

ORDER and ADJUDGE as follows:

1. We will hold a **hearing** on the Plaintiff’s Motion for Voluntary Dismissal Without Prejudice [ECF No. 34] on **Tuesday, October 17, 2023**, at **2:30 PM**, in Courtroom 12-4 of the Wilkie D. Ferguson, Jr. U.S. Courthouse, 400 N. Miami Avenue, Miami, Florida 33128.
2. Between now and the hearing, we **ORDER** the Defendant to **file a response** to the Plaintiff’s Motion for Voluntary Dismissal Without Prejudice [ECF No. 34], explaining **in detail** why the Defendant is not stipulating to the dismissal.
3. If we ultimately find that the Defendant has not objected in good faith to the Plaintiff’s

Motion for Voluntary Dismissal Without Prejudice [ECF No. 34], we may issue **sanctions**.

4. In the meantime, we direct the Clerk of Court to **STAY** and **CLOSE** this case. All pending deadlines and hearings—except the October 17, 2023, hearing—are **TERMINATED**, and any pending motions—except the Plaintiff's Motion for Voluntary Dismissal Without Prejudice [ECF No. 34]—are **DENIED AS MOOT**.

DONE AND ORDERED in the Southern District of Florida on October 10, 2023.

A handwritten signature in black ink, appearing to be 'Roy K. Altman', written over a horizontal line.

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record